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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,313

Applicant(s)

OPPERMAN ET AL.

Examiner

MD HATEM H. ALI

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/04/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a **Final Action** on merits in response to a communication received on 1/04/2008.

Acknowledgement

2. **Claims 20-21** are amended. As such **claims 20-23** are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 20-23** are rejected under 35 U.S.C. 103 (a) as being unpatentable over *Himmelstein* (2002/0038278) in views of *Russo* (2004/068458).

As per claim 20, *Himmelstein* discloses a method comprising:

displaying a first order type menu at times when a first order destination alternative is selected from an order destination menu, (para **0050-052**; via barter website **106** or pull down menus **507** and also para **0147** inherently destination at NYSE and the NASDAQ market) the first order destination alternative representing a first order destination, the first order type menu listing only order type alternatives that represent order types supported by the first order destination; and

displaying a second order type menu at times when a second order destination alternative is selected from the order destination menu, second order destination alternative representing a second order destination, the second order type menu listing only order type alternatives that represent order types supported by the second order destination, the second order type menu being different from the first order type menu (para **0052**, lines 12; via an array of pull down menus **507** for selection of second order type menu different from first type);

wherein: the first order destination and the second order destination are each selected from the group consisting of (a) securities exchange, (b) a market maker, (c) an ECN, and (d) a trading market placer; and order type alternatives included in both said and second order type menus include a market order type and a limit order type.

Himmelstein fails explicitly to disclose that the first order destination alternative representing a first order destination, the first order type menu listing only order type alternatives that represent order types supported by the first order destination, second order destination alternative representing a second order destination, the second order type menu listing only order type alternatives that represent order types supported by the second order; wherein: the first order destination and the second order destination are each selected from the group consisting of (a) securities exchange, (b) a market maker, (c) an ECN, and (d) a trading market placer; and order type alternatives included in both said and second order type menus include a market order type and a limit order type.

However, **Russo** being in the same field of invention discloses that the first order destination alternative representing a first order destination, the first order type menu listing only order type alternatives that represent order types supported by the first order destination, second order destination alternative representing a second order destination, the second order type menu listing only order type alternatives that represent order types supported by the second order; wherein: the first order destination and the second order destination are each selected from the group consisting of (a) securities exchange, (b) a market maker, (c) an ECN, and (d) a trading market placer; and order type alternatives included in both said first and second order type menus include a market order type and a limit order type (see **Abstract** and **Figs 1-108**, para **0001-0003** - via viewing screen window with user's of the machine's interface; para **0010** - via a logic field- provision of two choices; para **0240**-via choosing another symbol of exchange [**Fig-057**] as destination ; para **0233** and **0241** – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore , it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate the user of the **machine-1** simply pushes a few buttons and then just wait for the profits and or ships to come in (para-**0234**)

As per claim 21, Himmelstein discloses a method comprising:

displaying a first order destination menu at times when a first financial instrument trading symbol is displayed in an order input area of a user interface (para **0050-0052**;

via barter website **106** or pull down menus **507** and also para **00147** inherently destination at NYSE and the NASDAQ market. First instrument trading symbol Aetna Stock-**AET** at line 21 of para **0041**), the first order destination menu listing only order destination alternatives that correspond to order destinations that support trading in a first financial instrument that correspond to the first financial instrument trading symbol; and

displaying a second order destination menu at times when a second financial instrument trading symbol is displayed in the order input area, second order destination alternative representing a second order destination, the second order type menu listing only order type alternatives that represent order types supported by the second order destination, the second order type menu being different from the first order type menu, the second order destination menu being different from the first order destination menu (para **0052**, lines 12; via an array of pull down menus **507** for selection of second order type menu different from first type. Second Instrument trading Symbol-the DuPont Option **DD** also in **Fig.5A**).

wherein: at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from the group consisting of (a) a securities, (b) a market maker, (c) an ECN and (d) a trading market place.

Himmelstein fails explicitly to disclose that the first order destination menu listing only order destination alternatives that correspond to order destinations

that support trading in a first financial instrument that correspond to the first financial instrument trading symbol second order destination alternative representing a second order destination, the second order type menu listing only order type alternatives that represent order types supported by the second order destination, the second order type menu being different from the first order type menu, wherein: at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from the group consisting of (a) a securities, (b) a market maker, (c) an ECN and (d) a trading market place.

However, **Russo** being in the same field of invention discloses that the first order destination menu listing only order destination alternatives that correspond to order destinations that support trading in a first financial instrument that correspond to the first financial instrument trading symbol second order destination alternative representing a second order destination, the second order type menu listing only order type alternatives that represent order types supported by the second order destination, the second order type menu being different from the first order type menu, wherein: at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from the group consisting of (a) a securities, (b) a market maker, (c) an ECN and (d) a trading market place (see **Abstract** and **Figs 1-108** , para **0001-0003** - via viewing screen window with user's of the machine's interface; para **0010** - via a logic field- provision of two choices; para **0240-**

via choosing another symbol of exchange [Fig-057] as destination ; para 0233 and 0241 – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore , it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of *Himmelstein* and include the features mentioned by *Russo* to facilitate the user of the **machine-1** simply pushes a few buttons and then just wait for the profits and or ships to come in (para-0234)

As per claim 22, *Himmelstein* discloses that the first financial instrument trading symbol represents a first common stock (para 0041, line 21; via Aetna Stock symbol-AET, 234); and

the second financial instrument trading symbol represents a second common stock (para 0041, line 19; via DuPont Stock-DD, 228).

As per claim 23, *Himmelstein* discloses that the first financial instrument trading symbol represents a common stock (para 0041 line 21; via Aetna Stock symbol-AET, 234); and

the second financial instrument trading symbol represents an option (para 0051, line 12; via the DuPont Option-DD).

Response to Arguments

5. Applicant's arguments with respect to **claims 20-23** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed H. Ali whose telephone number is 571-270-3021. The examiner can normally be reached on 8.00 to 6.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3692

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mohamed H Ali
Examiner
Art Unit 3692

MA
/Harish T Dass/
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